IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M. No. 22066-CII of 2005
in C.R.No. 5668 of 2005

Date of decision : 3.11.2006.

Shree Vishavkarma Mandir Dharamshala, Ganaur Mandi.

.....Petitioner.

Versus

Shri Rajbir Singh

.....Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Atul Gaur,Advocate
for the petitioner.

Mr. Harkesh Manuja, Advocate
for the respondent.

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VINOD K. SHARMA,J.(ORAL)

C.M. No. 22066-CII of 2005

This is an application under Section 5 of the Limitation Act for condoning the delay of 407 days in filing the revision petition.

The learned counsel for the petitioner in support of this application contends that as the respondent was a signatory to the resolution Ex.A-1 dated 26.6.1996 vide which it was resolved by the general body of the society that the shops in front of the Dharamshala should be demolished and added to the courtyard of the Dharamshala so that the gathering of the Vishavkarma community could be held in a comfortable

atmosphere and space. Due to this resolution, the petitioners have been accepting the request of the respondent seeking time to vacate the premises from time to time.

The learned counsel for the respondent disputed this fact of having sought extensions. The learned counsel for the respondent contended that there was hardly any occasion for him to seek extensions as both the courts have held in favour of the respondent and eviction petition filed by petitioner was dismissed by the learned Rent Controller as well as appellate authority. As regards the resolution, the contention of the learned counsel for the respondent was that this very resolution was disputed by him before the courts below and the same was not relied upon by the court while rejecting the application by the court below for want of proof. Thus, it is clear that the petitioners were very much aware of the fact that the respondent is not agreeing to the said resolution and had disputed the same and, therefore, this could not be a ground for petitioner for seeking condonation of delay in filing the revision petition. The ground raised in the petition, therefore, cannot be said to be sufficient ground for condonation of delay.

The learned counsel for the petitioner placed reliance on the judgment in **M.K. Prasad Versus P. Arumugam** (**2001) 6 SCC 176 to** submit that failure to adopt extra vigilance cannot be a ground for rejection of application for condonation of delay, as the exercise of discretion by the Courts should be to advance justice.

He has also placed reliance on **State of Nagaland Versus Lipok AO and Others 2005 (3) SCC 752** to contend that it is not the

length of delay but sufficiency of cause of delay which would decide the matter regarding condonation of delay.

The authorities relied upon by the petitioner have no application to the facts of the present case as it is not the case of the petitioner that they were not in extra vigilant but had in fact taken a wrong plea in the application for condonation of delay. The stand taken by the petitioner,therefore, could not make out a ground for condonation of delay.

The facts stated above would also reveal that it was not on account of length of delay that the application is being dismissed but it is being dismissed as the petitioner has to show sufficient cause for condoning the delay of 407 days.

The reading of the application and grounds taken therein when read with orders passed by the learned Courts below it and safely be said that the application cannot disclose any cause much less sufficient cause for condoning the delay.

Accordingly the application for condoning the delay is dismissed.

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Revision petition is dismissed being time barred.

3.11.2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**